

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 7, 2002

D032205 People v. Cox

The judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Benke, Acting P.J.;
We Concur: Nares, J., Haller, J.

D037187 People v. Morgan

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037338 People v. Oliver

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D037231 Redevelopment Agency of the City of Chula Vista v. Rados Bros.

The opinion filed on December 17, 2001, is modified. There is no change in judgment.

D034429 People v. Basuta

The opinion filed December 10, 2001, is modified. There is no change in judgment. The petition for rehearing is denied.

D036549 People v. Martinez

Judgment affirmed. Haller, J.; We Concur: Kremer, P.J., Benke, J.

D037339 People v. Stephans

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037869 People v. Hohnney

The conviction and sentence are affirmed but for credit for time served. The matter is remanded for the trial court to amend the abstract of judgment to award Hohnney actual custody credit and correct the date the sentencing was imposed. The Department of Corrections shall determine appropriate conduct credit. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D036569 People v. Caldwell

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McIntyre, J.

D036729 People v. Johnson

The judgment is affirmed. McIntyre, J.; We Concur: Huffman, Acting P.J., Nares, J.

D038400 In re Sasha M., a Juvenile

The judgments and orders are affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J.

D038289 In re John L., a Juvenile

D038702 (consolidated)

The appeals are dismissed. Kremer, P.J.; We Concur: Nares, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 7, 2002 (Continued)

D036571 People v. Romero

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D033737 People v. Richie

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., McDonald, J.

D036946 People v. Graham

The sentence is reversed and the matter is remanded for resentencing in accord with this opinion. In all other respects, the judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D037867 In re Janet L. et al., Persons Coming Under the Juvenile Court Law

The judgment is affirmed. McDonald, J.; We Concur: Kremer, P.J., Benke, J.

D036969 People v. Jackson

The judgment is affirmed. Nares, J.; We Concur: Kremer, P.J., McConnell, J.

D035974 Sandoval, a Minor, etc., et al. v. Bank of America NT & SA

The judgment is reversed and the matter remanded to the superior court for further proceedings. Appellants shall have costs on appeal. CERTIFIED FOR PUBLICATION. Kremer, P.J.; We Concur: Benke, J., O'Rourke, J.

D038996 In re Smith on Habeas Corpus

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 8, 2002

D036621 People v. Rider

The case is remanded to the trial court with directions that the second strike allegation (the 1988 Indiana child molestation prior conviction) be stricken and the sentence be vacated. The trial court shall resentence Rider and amend the abstract of judgment accordingly. The trial court shall forward a copy of the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. McConnell, J.; We Concur: Kremer, P.J., McDonald, J.

D037481 Harvey v. Harvey

Upon written stipulation filed by the parties to the appeal, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)). Each party to bear own costs on appeal. Huffman, A.P.J.

D037445 In re Michael M., a Juvenile.

The order is affirmed. McConnell, J.; I Concur: Kremer, P.J., I Concur in the result: McDonald, J.

D039282 Szemeneyi v. Superior Court of San Diego County/Crouch et al.

The petition is denied.

D039074 Zenith Insurance Company v. Workers' Compensation Appeals Board/Ortiz

The petition is denied.

**D039065 Novacare Employee Services et al. v. Workers' Compensation Appeals
Board/Mutual Insurance Company**

The petition is denied.

D038864 In re Buckingham on Habeas Corpus

The denial of a writ of habeas corpus when no order to show cause has issued is final immediately. The petition for rehearing is denied as the court lacks jurisdiction.

D038329 Moroz v. Superior Court of San Diego County/Schraefel

The petition is denied. Schraefel is entitled to costs in this writ proceedings. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D039318 Erfani et al. v. Superior Court of San Diego County/People

The petition is denied.

D036757 People v. Garcia

The judgment is affirmed as to the revocation of probation, but reversed as to the sentence. The trial court is directed to hold a new sentencing hearing. Benke, J.; We Concur: Kremer, P.J., Huffman, J.

D036948 People v. Nester

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 8, 2002 (Continued)

D037818 People v. Cascanti

Judgment affirmed. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

D037035 Eriksson v. Government Employees Insurance Company

The judgment is affirmed. Haller, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D038608 Susag et al. v. City of Lake Forest et al.

The judgment is affirmed. The defendants are awarded costs on appeal. CERTIFIED FOR PUBLICATION. McConnell, J.; We Concur: Kremer, P.J., McDonald, J.

D036132 Furstenfeld v. Anderson et al.

The order dismissing the complaint is reversed. McDonald, J.; We Concur: Kremer, P.J., Benke, J.

D035782 People v. Gunn

The orders denying the motion for disclosure of juror identifying information and motion for new trial are reversed and the judgment is affirmed in all other respects. The matter is remanded with directions for further proceedings consistent with this opinion. McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 9, 2002

D038771 People v. Cardenas

Upon filing an abandonment of appeal, the appeal is dismissed.

D036632 Huber et al. v. Frank's Welding Services, Inc. et al.

The petition for rehearing is denied.

D034424 People v. Delpy

The petition for rehearing is denied.

D038614 Walt Disney World Co. v. Montgomery Kone, Inc.

The judgment is affirmed. Montgomery is awarded costs on appeal. McConnell, J.;
We Concur: Kremer, P.J., McDonald, J.

D037715 People v. O'Neal

The order is affirmed. O'Rourke, J.; We Concur: Haller, Acting P.J., McDonald, J.

D037259 In re Andre Joseph P., a Juvenile

The judgment (order of commitment to CYA) is affirmed. Huffman, Acting P.J.; We Concur: Haller, J.,
McIntyre, J.

D037349 People v. Hammer

The matter is remanded for a new sentencing hearing, at which the sentencing court shall exercise its
informed discretion as to whether to dismiss the prior conviction for Three Strikes sentencing purposes,
or utilize that conviction. In all other respects, the judgment is affirmed. CERTIFIED FOR PARTIAL
PUBLICATION. Huffman, Acting P.J.; We Concur: Nares, J., Haller, J.

D037149 People v. Guerrero

The trial court is directed to prepare an amended abstract of judgment, deleting reference to the
conviction for possession of methamphetamine, and to forward the amended abstract of the appropriate
authorities. In all other respects the judgment is affirmed. Huffman, J.; We Concur: Benke, Acting P.J.,
Nares, J.

D037586 Chavez et al. v. Mendoza et al.

The petition for rehearing is denied.

D035759 People v. McGee

The judgment is affirmed. O'Rourke, J.; We Concur: Kremer, P.J., McDonald, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 9, 2002 (Continued)

D038191 Cranstal Resources, Ltd. et al. v. Dean Witter Reynolds, Inc.

The judgment is reversed and remanded. Appellants are entitled to costs on appeal. O'Rourke, J.;
We Concur: Benke, Acting P.J., McDonald, J.

D038192 Cranstal Resources, Ltd. et al. v. Zukowski & Bresenhan

The judgment is reversed and remanded. Appellants are entitled to costs on appeal. O'Rourke, J.;
We Concur: Benke, Acting P.J., McDonald, J.

D039263 Humes v. Greyhound Lines, Inc.,

Pamela W. Humes's appeal of the arbitration decision and award of arbitrator Peter L. Dean is dismissed.

D034303 People v. Rogers, Jr.

The judgment is affirmed. The superior court is directed to amend the abstract of judgment to indicate the sentences for possession of a firearm concealed within a vehicle and receipt of stolen property are stayed under Penal Code section 654. The superior court is also directed to forward a certified copy of the amended abstract to the Department of Corrections. Kremer, P.J.; We Concur: Benke, J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 10, 2002

D037883 Conservatorship of the Person of Christina Bunting

The judgment is affirmed. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D039303 Escondido Union School District v. Superior Court of San Diego County/The Copley Press, Inc.

The petition is denied.

D039288 Miller v. Superior Court of San Diego County/Miller

The petition is denied.

D036905 People v. Robinson

The judgment is affirmed. Benke, Acting P.J.; I Concur: Haller, J., I Dissent (w/opinion): McDonald, J.

D038808 Angela L. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The petitions are denied. Kremer, P.J.; We Concur: Nares, J., O'Rourke, J.

D039334 Weiskopf v. Superior Court of San Diego County/Riley et al.

The petition is denied. Petitioner has an adequate remedy by way of appeal.

D039339 Soeng K. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The notice of intent filed by grandmother is dismissed for lack of standing.

D038091 Carter v. The Superior Court of San Diego County/The New York Times Company, NYT Television Discovery Communications, Inc.

Let a writ issue directing the respondent court to vacate its order granting NYT and DCI's motion to strike under the anti-SLAPP statute, and to enter a new and different order striking only the causes of action for invasion of privacy by public disclosure of private facts, commercial misappropriation, defamation and violation of the CMIA. Costs of the writ proceeding are awarded to Carter. The stay issued will be vacated when the opinion is final as to this court. As a result of our disposition in this court proceeding, the judgment entered in the case in favor of real parties in interest is vacated, the appeal from that judgment is dismissed as moot and the matter remanded to the trial court. McDonald, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D038269 Carter v. NYT Television et al.

As a result of the disposition in case number D038091, this appeal is dismissed as moot. The stay issued will be vacated when the opinion in D038091 is final as to this court.

D030097 In re Chaker on Habeas Corpus

The petition is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA
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DIVISION ONE

January 10, 2002 (Continued)

D036563 People v. Ginter

The judgment is reversed and the matter is remanded with directions for further proceedings as set forth in this opinion. McDonald, J.; I Concur: O'Rourke, J., I Dissent (by opinion): Kremer, P.J.

D036895 People v. Koosed

The judgment is affirmed. Huffman, J.; We Concur: Kremer, P.J., O'Rourke, J.

D039343 Springfield v. Superior Court of San Diego County/People

The petition is denied.

**D039091 Markstein Beverage Company v. Workers' Compensation Appeals Board and
Vargas**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 11, 2002

D035161 San Diego Unified Port District v. Douglas E. Barnhart, Inc., et al.

The order requiring Barnhart and SGPA to contribute to the cost of destructive testing on the subject floor is reversed. The court is directed to vacate that order and issue a new order directing that the cost of the destructive testing is to be shared equally by the parties who have either affirmatively requested such testing or voluntarily agreed to contribute to its cost. Barnhart and SGPA are awarded their costs on appeal. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D037830 Blake v. Department of Motor Vehicles

The judgment is reversed. Each party to bear their own costs on appeal. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

D035518 Smith v. Minnesota Mining and Manufacturing Company

Judgment affirmed. Respondent to recover its costs. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

D035808 Moore, P.C. v. Orthodontic Centers of America, Inc./Orthodontic Centers of America, Inc., et al.

The portion of the judgment finding that Dr. Moore is entitled to take nothing from OCA on his affirmative complaint is affirmed. We likewise affirm the portion of the judgment finding Dr. Moore is obligated to repay OCA for his loan of \$391,700. We reverse the remaining portions of the judgment requiring Dr. Moore to pay OCA \$202,838. In the event of a retrial on OCA's affirmative breach of contract and fraud claims based on the BSA, the court should sever BSA sections 3.3, 3.6, and 6.2 from the agreement. The parties to bear their own costs on appeal. Haller, J.; We Concur: Huffman, Acting P.J., Nares, J.

D036647 Citizens For Safe Drinking Water v. San Diego City Council

The judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

D036787 Burch v. Anderson

The orders are affirmed. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D038187 Mission Crane Service, Inc. v. Danford

Judgment affirmed. MCS to recover its costs. Benke, Acting P.J.; We Concur: Haller, J., McDonald, J.

D038620 California Insurance Guarantee Association v. Petrisevac et al.

The judgment is affirmed. Costs are awarded to Respondent. Huffman, Acting P.J.; We Concur: O'Rourke, J., McIntyre, J.

D036264 People v. Hines

The abstract of judgment is ordered amended to show (1) the applicable enhancement is not section 12020, subdivision (6)(a)(1), but rather section 12020.6, subdivision (a)(1), and (2) the amount of restitution is \$393,000. In all other respects, the judgment is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

COURT OF APPEAL OF STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT
DIVISION ONE

January 11, 2002

D039243 People v. Morgan

The motion to file a late appeal is denied as appellant waived his appeal rights as part of his plea. The motion for relief from default is denied.